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**IDAPA 55
TITLE 01
CHAPTER 02**

55.01.02 - RULES GOVERNING POSTSECONDARY PROGRAM REDUCTION OR TERMINATION

000. LEGAL AUTHORITY.

The State Board of Education is designated as the State Board for Professional-Technical Education and is responsible to execute the laws of the state of Idaho relative to professional-technical education, administer state and federal funds, and through the administrator of the State Division of Professional-Technical Education, coordinate all efforts in professional-technical education (Sections 33-2202 through 33-2212, Idaho Code). (4-5-00)

001. TITLE AND SCOPE.

01. Title. These rules shall be known as the IDAPA 55.01.02, "Rules Governing Postsecondary Program Reduction Or Termination". (4-5-00)

02. Scope. These rules serve the administration of Professional-Technical Education in Idaho and define the duties of the State Division of Professional-Technical Education. (4-5-00)

002. WRITTEN INTERPRETATIONS.

Written interpretations of these rules, if any, are on file at the office of the State Division of Professional-Technical Education. (4-5-00)

003. ADMINISTRATIVE APPEALS.

All appeals under these rules shall be conducted pursuant to the procedures set forth by the State Board of Professional-Technical Education. (4-5-00)

004. DEFINITIONS.

01. ICPS. Means Idaho Classified Personnel System. (4-5-00)

02. SDPTE. Means State Division of Professional-Technical Education. (4-5-00)

03. SBPTE. Means State Board for Professional-Technical Education. (4-5-00)

04. Institution. Means one (1) of the six (6) postsecondary technical colleges. (4-5-00)

005. -- 099. (RESERVED).

100. STATEMENT OF PURPOSE.

IDAPA 55.01.02, "Rules Governing Postsecondary Program Reduction Or Termination," specifically applies to reductions or terminations in postsecondary professional-technical education programs, and to the extent there is a conflict between IDAPA 55.01.02, "Rules Governing Postsecondary Program Reduction Or Termination," and the Administrative Rules of the Board of Education IDAPA 08.01.02, "Personnel Rules of the State Board of Education," IDAPA 55.01.02, "Rules Governing Postsecondary Program Reduction Or Termination," supersedes and shall be given priority over said Administrative Rules of the State Board of Education. (4-5-00)

101. CONDITIONS FOR REDUCTION OR TERMINATION.

The Idaho State Board of Professional-Technical Education sets forth the following conditions and procedures for the reduction or termination of postsecondary professional-technical programs. Any postsecondary professional-technical education program is subject to reduction or termination when the SBPTE finds that one (1) or more of the following conditions exist. (4-5-00)

01. Inadequate Job Opportunities. Adequate job opportunities no longer exist in the occupation of which the training is provided (as exhibited by local, regional and statewide employment data) to justify continued operation of a program at its current level. (4-5-00)

02. Inadequate Student Enrollment. Student enrollment is below an acceptable standard for two consecutive years. (Standard to be predetermined at the local level based on facilities requirements, equipment needs, and an acceptable student/teacher ratio.) Seventy-five percent (75%) of capacity is considered a generally acceptable standard. (4-5-00)

03. Inadequate Job Placement. Job placement in the occupation for which training is provided is below seventy-five percent (75%) of completers available for employment for two (2) consecutive years. Job placement will be assessed through statewide follow-up system. (4-5-00)

04. Inadequate Completion Rate. For two (2) consecutive years, Associate of Applied Science degree programs/options and certificate programs/options have less than a fifty percent (50%) completion rate. (4-5-00)

05. Inadequate Need Based On Assessment. Current statewide Needs Assessment/Strategic Plan places reduced emphasis on training in the occupation for which the program prepares students. (4-5-00)

06. Inadequate Finances. A condition of financial exigency as determined by the SBPTE prevents the continuation of a quality program at its current level of operation. (4-5-00)

102. PROCEDURES.

The following procedures will govern the reduction or termination of postsecondary professional-technical programs. (4-5-00)

01. Notice Of Initiation. (4-5-00)

a. Formal notice of initiation of program review proceedings will be provided to the institution's president/designee by the SDPTE; or (4-5-00)

b. When the proceedings are initiated by the institution, the institution's president/designee will notify the SDPTE. (4-5-00)

02. Official Documentation. Official documentation that one (1) or more of the conditions stated in Section 101 exists. This documentation will be compiled through the joint efforts of the institution and the SDPTE. (4-5-00)

03. Official Recommendation. Official recommendation for program reduction or termination will be presented by the SDPTE to the SBPTE for final action. (4-5-00)

04. Notification Of Employees. The postsecondary institution will notify the employees affected by the program reduction or termination of the SBPTE's action. (4-5-00)

05. Vacated Positions. The vacated position(s) will remain with the postsecondary institution if appropriate reallocation is justified to the SBPTE. Positions left vacated more than twelve (12) months are subject to reallocation within the professional-technical college system or elimination. (4-5-00)

06. Transfer Of Programs. Upon written request by the postsecondary institution, assessment will be made by the SDPTE to determine the feasibility of transferring the program, position(s), equipment and such, affected by the reduction or termination to another postsecondary institution. (4-5-00)

103. EFFECTIVE DATE.

The actual program reduction or termination will take place upon completion of the school year in which the reduction or termination was approved, or upon completion of the program by students enrolled in the program, whichever is later, unless provision can be made for transfer of such students to a mutually acceptable program. (4-5-00)

104. -- 199. (RESERVED).

200. REDUCTIONS IN FORCE.

The institution, after consultation with professional-technical faculty, professional staff, and classified personnel, must prepare and recommend to the SDPTE a plan consisting of various alternatives to implement program reduction or termination and staff reduction procedures. When developing this plan, consideration must be given to the necessity and manner of reducing the employment force and the criteria for identifying the employees who are to be laid off. The SDPTE must consider and approve a program to implement its decision prior to the effective date of any layoffs. Reductions in force will be done equitably, in good faith, and in a systematic manner. The institution may establish a committee to advise the president/designee on the need for program reduction or termination and the possible remedies therefore. (4-5-00)

201. (RESERVED).

202. CRITERIA.

In making any staff reduction recommendation, the institution must utilize as the first criterion the preservation of the quality and effectiveness of its programs. (4-5-00)

01. Retained Employees. Those employees who, in the sole and absolute discretion of the institution president, are determined to be of key importance to the specific program will be retained in preference to other employees, regardless of their status. (4-5-00)

02. Programs. Programs, for the purposes of Section 202, include professional-technical, academic, non-instructional, maintenance, administrative, and other support areas. (4-5-00)

03. Other Criteria. Other criteria that must be considered include: (4-5-00)

a. Tenure. (4-5-00)

b. Rank. (4-5-00)

c. Time in rank. (4-5-00)

d. Length of service. (4-5-00)

e. Field of specialization. (4-5-00)

f. Maintenance of necessary programs or services. (4-5-00)

g. Maintenance of affirmative action programs. (4-5-00)

h. Quality of service and work. (4-5-00)

203. -- 299. (RESERVED).

300. NOTICE TO EMPLOYEES.

Any layoff may be of severe economic and personal loss to the employee. Therefore, within five (5) working days of SBPTE program reduction approval, the institution must give notice in writing to employees who are affected by a program reduction or termination. (4-5-00)

301. FORM OF NOTICE.

The notice must include: (4-5-00)

01. Date. The effective date of layoff; (4-5-00)

02. Reasons. A statement of the reasons for the action to eliminate or reduce the size of the program; (4-5-00)

03. Criteria. The basis, the procedures, and the criteria used to layoff an employee; (4-5-00)

04. Appeal. Any opportunity for appeal of the initial recommendation and access to appropriate documentation; and (4-5-00)

05. Reinstatement. The reinstatement rights of the employee. (4-5-00)

302. TIME OF NOTICE.

The institution will make every effort to give as much notice as practical to each affected employee in advance of the effective date of the layoff. The SBPTE requires the following minimum written notice of layoff. (4-5-00)

01. Classified Employees. To employees subject to the Idaho Classified Personnel System (ICPS) who shall be subject to the requirements of the ICPS, but in no case not less than sixty (60) calendar days before the effective date of layoff. (4-5-00)

02. Exempt Employees. To exempt employees serving under a contract of employment for a fixed term, not less than sixty (60) calendar days before the effective date of layoff. (4-5-00)

03. Faculty Members. To faculty members occupying faculty positions, a notice of the effective date of the layoff being not less than sixty (60) calendar days prior to the end of the semester in which the reduction or termination is declared. (4-5-00)

04. Timelines. If notice is not given within the timelines of Section 300 or Section 302, then such effective date shall be no sooner than sixty (60) after the actual notice is given. (4-5-00)

303. RELOCATION.

At the time it is preparing and implementing a program reduction or termination the institution shall, to the extent practicable, make a good faith effort to relocate any employee to be laid off in a suitable vacant position within the institution for which that employee is fully qualified. Except when required by the rules of the Division of Human Resources applicable to employees subject to the ICPS, an employee to be laid off has no right to bump another employee from a position to maintain employment. This good faith effort to relocate an employee need not extend beyond the effective date of the layoff, but the employee does have the layoff roster rights provided herein. (4-5-00)

304. -- 399. (RESERVED).

400. APPEAL RIGHTS OF CLASSIFIED EMPLOYEES.

The decision of the institution's president is final and not appealable to the SBPTE. (4-5-00)

401. APPEAL RIGHTS OF NON-CLASSIFIED EMPLOYEES.

A reduction in force of employees serving under a contract of employment for a fixed term will be accomplished by non-renewal of the contract of employment rather than by layoff during the term of employment. Non-renewal is not appealable within the institution nor is it appealable to the SBPTE. If an institution determines that the reduction in force requires that an employee serving under a contract of employment for a fixed term be laid off during the term of employment, that employee is entitled to use the institution's appeal procedures. (4-5-00)

01. Notification. The employee must notify the president/designee of the institution in writing, within fifteen (15) days of the receipt of the notice of layoff, of his/her intent to use the institution's appeal procedure. (4-5-00)

02. Decision. The decision of the president following the appeal procedure is final and not appealable to the SBPTE. (4-5-00)

03. Effective Date. Use of the internal appeal procedure does not delay the effective date of layoff. (4-5-00)

402. STANDARD OF REVIEW.

The sole basis on which to contest a layoff of employees subject to the ICPS is compliance with the rules of the Division of Human Resources, where applicable, and compliance with the rules and the program for reduction in

force approved by the SBPTE. The sole basis to contest a layoff of faculty members and non-faculty/non-classified employees serving under a contract of employment for a fixed term is compliance with the SBPTE rules and the program for reduction in force approved by the SBPTE. (4-5-00)

403. LAYOFF ROSTER FOR CLASSIFIED EMPLOYEES.

When laying off employees subject to the ICPS, the institution must prepare and distribute a listing of retention point scores of employees and classes to be affected by the layoff as required by the rules of the Division of Human Resources. A classified employee reinstated from a layoff roster will be paid at a pay grade and step consistent with the rules of the IPC in effect at the time of reinstatement. (4-5-00)

404. BENEFITS.

An employee who is laid off may continue to contribute toward and receive the benefits of any state health insurance program if, and to the extent, that the laws, rules, regulations, policies, and procedures governing the administration of such insurance program so permit. (4-5-00)

405. ACCRUED LEAVE.

An employee who has been laid off and who accepts reemployment must be credited with any sick leave which the employee had accrued as of the date of layoff, and with any annual leave which the employee had accrued as of the date of layoff and for which the employee has not received payment. (4-5-00)

406. REINSTATEMENT RIGHTS FOR TENURED FACULTY.

In cases of layoff of tenured faculty members occupying faculty positions, the position concerned may not be filled by replacement within a period of three (3) years from the effective date of the layoff unless the tenured faculty member has been offered a return to employment in that position and has not accepted the offer within thirty (30) calendar days after the offer was extended. (4-5-00)

01. Obligation. If an offer of reinstatement is not accepted, the tenured faculty member's name may be deleted from the reinstatement list, and, if so deleted, the institution and the SBPTE have no further obligation to the faculty member. (4-5-00)

02. Benefits. A tenured faculty member who is laid off may continue to contribute toward and receive benefits of any state health insurance program if, and to the extent that, the laws, rules, regulations, policies, and procedures governing the administration of such insurance program so permit. (4-5-00)

03. Reemployment. A tenured member of the faculty who has been laid off and who accepts reemployment at the institution will resume tenure and the rank held at the time of layoff, be credited with any sick leave accrued as of the date of layoff, be paid a salary commensurate with the rank and length of previous service, and be credited with any annual leave which the employee has accrued as of the date of layoff and for which the employee has not received payment. (4-5-00)

407. REINSTATEMENT RIGHTS FOR NON-TENURED FACULTY AND NON-CLASSIFIED EMPLOYEES.

In cases of layoff of non-tenured faculty members occupying faculty positions, and non-classified employees, the position concerned may not be filled by replacement within a period of one (1) year from the effective date of the layoff unless the employee has been offered a return to employment in that position and the employee has not accepted the offer within thirty (30) calendar days after the offer was extended. (4-5-00)

01. Obligation. If an offer of reinstatement is not accepted, the employee's name may be deleted from the reinstatement list and, if so deleted, the institution and the SBPTE have no further obligation to the employee. (4-5-00)

02. Benefits. A non-tenured faculty member, or a non-classified employee who is laid off may continue to contribute toward and receive the benefits of any state health insurance program if, and to the extent that, the laws, rules, regulations, policies, and procedures governing the administration of such insurance program so permit. (4-5-00)

03. Non-Tenured Faculty. A non-tenured member of the faculty who has been laid off and who accepts reemployment at the institution will resume the rank (if applicable) held at the time of layoff, be credited with any sick leave accrued as of the date of layoff, be paid a salary commensurate with the rank and length of previous service, and will be credited with any annual leave which the employee had accrued as of the date of layoff and for which the employee has not received payment. (4-5-00)

04. Non-Classified Employee. A non-classified employee who has been laid off and who accepts reemployment at the institution will be credited with any sick leave the employee had accrued as of the date of layoff, paid a salary commensurate with the length of previous service, and credited with any annual leave which the employee had accrued as of the date of layoff and for which the employee has not received payment. (4-5-00)

408. -- 999. (RESERVED).

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